REMARKS

Reconsideration and allowance of the subject application are respectfully requested. Claims 1-26 are pending in the present application, claims 1, 9, 15, and 21 are independent.

35 U.S.C. § 103 Rejections

Claims 1, 2, 4, 8, 9, 10, 15, 16, 21, and 22 are rejected under 35 U.S.C. §103(a) as being anticipated by Chen et al. (U.S. Patent No. 5,982,760) in view of Nakano et al. (U.S. Patent 5,559,789) This rejection is respectfully traversed.

With regard to claim 1, Applicants assert that Chen et al. and Nakano et al., separately or in any proper combination fail to disclose an interference measure based on . . . the power of a pilot signal received at a mobile unit; and setting an initial power level in a forward link based on said interference measure as recited in claim 1. Instead, Chen et al. disclose determining a quality measurement of a reverse link (box 204 of FIG. 5A and Col. 7, lines 50-56 and column 3 lines 11-19) sent from a mobile. Applicants submit that determining a quality measurement of a reverse link itself is not the same as setting an initial power level in a forward link based on a power of a pilot signal received at a mobile unit. Moreover, in further distinguishing claim 1 from the art cited, the Examiner admits on page 7 of the Office action that Chen et al. does not disclose a power of a pilot signal as in claim 1. Therefore, Chen et al. cannot disclose or suggest an interference measure based on . . . the power of a

pilot signal received at a mobile unit; and setting an initial power level in a forward link based on said interference measure as recited in claim 1.

The Examiner suggests on page 7 of the Office Action that Nakano et al. makes up for the deficiencies of Chen et al. Applicants disagree. The Examiner asserts that Nakano et al. (FIG. 4, box 119; abstract lines 7-9) disclose a mobile unit that includes a pilot signal reception level measuring circuit for measuring reception power of the received pilot signal. However, Applicants submit that Nakano et al. also discloses that the pilot signal of Nakano et al. is used to adjust the transmission control power of a mobile unit's reverse link (abstract lines 7-12). Applicants assert that the adjustment of a reverse link based on a pilot signal is not the same as setting an initial power level in a forward link based on a power of a pilot signal received at a mobile unit. Therefore, Chen et al. cannot disclose or suggest an interference measure based on . . . the power of a pilot signal received at a mobile unit; and setting an initial power level in a forward link based on said interference measure as recited in claim 1.

With regard to independent claims 9, 15, and 21, claims 9, 15, and 21 include similar features as in independent claim 1 and are allowable for at least the reasons stated in the traverse of claim 1 above.

With regard to claims 2, 4, 8, 10, 16, and 22 Applicants assert that they are allowable at least because they each depend from at least one of independent claims 1, 9, 15, and 21.

Applicants respectfully request that the art grounds of rejection be withdrawn.

Claims 3, 5, 6, 11, 12, 13, 17, 18, 19, 23, 24, and 25 are rejected under 35 U.S.C. 103 as unpatentable over Chen et al. and Nakano et al. and in further view of Love et al. Applicants respectfully traverse.

As shown above in the traverse of claims 1, 9, 15, and 21, Chen et al. and Nakano et al. fail to disclose, separately or in any proper combination, an interference measure based on . . . the power of a pilot signal received at a mobile unit; and setting an initial power level in a forward link based on said interference measure.

Love is directed to a method for controlling the communication system forward link capacity by receiving gain information from at least one forward link, comparing the gain information with a gain threshold, and based on the comparison, adjusting an encoding rate of at least one of the forward links (Col. 3, lines 11-19).

Love addresses the signal interference by adjusting the forward link encoding rate (R) (Love, col. 4, ll. 56-57). The forward link signal received at the mobile station is maintained at a level to provide adequate frame error rates at the mobile station (Love, col. 4, ll. 57-60). At the same time a gain, that was decided to be adequate to overcome the interference, is scaled by a factor (r) that is proportional to the square root of the new and previous encoding rate (Love, col. 4, ll. 60-64). Love states that dropping the encoding

rate (R) allows a drop in gain in the forward link and as a result less interference is created (Love, col. 5, ll. 1-8). Thus when a mobile station detects poor frame error rate, it requests a higher gain setting for its associated forward link signal.

Therefore, Love addresses the interference problem by changing the channel encoding rate, which results in a power decrease when a gain value is greater than a set threshold level. In Love the gains are related to the power, which is related to the energy per chip multiplied by chip rate R_c (Love, col. 4, equation 2). Therefore, Love fails to disclose or suggest an interference measure based on . . . the power of a pilot signal received at a mobile unit; and setting an initial power level in a forward link based on said interference measure. Claims 1, 9, 15, and 21 are not obvious to one skilled in the art by Chen et al. and Nakano et al. in view of Love. Claims 3, 5, 6, 11, 12, 13, 17, 18, 19, 23, 24, and 25 are allowable at least because they each depend from at least one of independent claims 1, 9, 15, and 21 which are allowable.

Applicants respectfully request the art grounds of rejection be withdrawn.

Claims 7, 14, and 26 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Chen et al. and Nakano et al. in view of Meidan et al. (U.S. Patent No. 5,193,102). Applicants respectfully traverse.

As shown above in the traverse of claims 1, 9, and 21, Chen et al. and Nakano et al. fail to disclose, separately or in any proper combination, an

interference measure based on . . . the power of a pilot signal received at a mobile unit; and setting an initial power level in a forward link based on said interference measure.

Meidan et al. is directed to an apparatus containing an estimator that estimates the carrier to interference power ratio of a slow frequency hopping signal by using input data samples of the hop to estimate carrier to interference power ration with a metric at least comprising a monotonically related function (Col. 18, lines 36-47). Meidan et al. does not disclose or suggest an interference measure based on . . . the power of a pilot signal received at a mobile unit; and setting an initial power level in a forward link based on said interference measure. Claims 1, 9, and 21 are not made obvious to one skilled in the art by Chen et al. in view of Meiden. Claims 7, 14, and 26 are allowable at least because they each depend from at least one of claims 1, 9, and 21.

Applicants respectfully request the art grounds of rejection be withdrawn.

Claim 20 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Chen et al. and Nakano et al. in view of Nakano et al. Applicants respectfully traverse.

Claims 20 is allowable at least because it depends from independent claims 15.

Applicants respectfully requests that the art grounds of rejection be withdrawn.

CONCLUSION

In view of the above amendments and remarks, Applicants respectfully request reconsideration and withdrawal of the formal objections and rejections to the claims, and the rejections based on prior art. Because all claims are believed to define over prior art of record, Applicants respectfully request an early indication of allowability.

If the Examiner has any questions concerning this application, the Examiner is requested to contact the undersigned at (703) 668-8000 in the Washington, D.C. area.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayments to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. §§1.16 or 1.17; particularly, extension of time fees.

Very truly yours,

HARNESS, DICKEY & PIERCE, P.L.C.

By _____
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